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AD HOC INTERGOVERNMENTAL WORKING GROUP
OF EXPERTS ESTABLISHED PURSUANT TO
GENERAL ASSEMBLY RESOLUTION 48/218
First session
11-15 April 1994

REPORT OF THE AD HOC INTERGOVERNMENTAL WORKING GROUP OF EXPERTS ESTABLISHED PURSUANT TO GENERAL ASSEMBLY RESOLUTION 48/218 ON THE WORK OF ITS FIRST SESSION

I. INTRODUCTION

1. The first session of the Ad Hoc Intergovernmental Working Group of Experts established pursuant to General Assembly resolution 48/218 of 23 December 1993 was held at United Nations Headquarters from 11 to 15 April 1994.

II. ORGANIZATIONAL MATTERS

A. Opening of the session

2. The session was opened by the President of the forty-eighth session of the General Assembly. He welcomed all the participants and recalled the circumstances under which the General Assembly had decided to establish the Working Group. He noted that the Assembly had been considering ways and means of improving the efficiency of the Organization, including how to deal with cases of fraud and presumptive fraud. He recalled that, at the forty-eighth session, the question of the adequacy of the judicial mechanism in existence for the Organization to deal with cases of fraud had been raised by the Minister for Foreign Affairs of France. The President recalled that, following discussions in the Fifth Committee, it had been unanimously agreed to establish an ad hoc intergovernmental working group of experts in the legal and financial fields to review the matter, with a view to determining whether a new jurisdictional and procedural mechanism would be warranted, or whether the situation required an extension of the mandates and an improvement of the functioning of existing jurisdictional and procedural mechanisms.

3. The President acknowledged that the task before the Ad Hoc Working Group was a difficult one. However, he was confident that, given the vast experience and expertise of the participants, they would overcome the difficulties. He wished the Working Group success in its work.

B. Attendance

4. The meeting was attended by experts from 24 Member States and representatives of invited United Nations bodies and offices. The list of participants is contained in annex I to the present report.

C. Election of officers

5. At its first meeting, on 11 April, the Working Group elected by acclamation Mr. Mame Balla Sy (Senegal) as its Chairman. The Chairman thanked the Working Group for the confidence placed in him, and observed that the subject before the Working Group was a very important and complex one. He expressed his confidence that, through their joint endeavours, they would arrive at a successful conclusion. He was particularly encouraged by the vast expertise of the members of the Working Group.

6. Three Vice-Chairmen, Mr. Pedro Desiderio Blandino Canto (Dominican Republic), Mr. Movses Abelian (Armenia) and Ms. Bonnie Miller (Canada), and a Rapporteur, Mr. N. Sivasubramanian (India), were elected by acclamation.

D. Adoption of the agenda

7. At its first meeting, on 11 April 1994, the Working Group adopted the following agenda:

1. Election of officers.

2. Adoption of the agenda and organization of work.

3. Alleged cases of fraud in the United Nations: study of the possibility of the establishment of a new jurisdictional and procedural mechanism or of the extension of the mandates and improvement of the functioning of existing jurisdictional and procedural mechanisms.

4. Adoption of the report of the Ad Hoc Intergovernmental Working Group on its first session.

E. Organization of work

8. The Working Group had before it a conference room paper (A/AC.243/1994/CRP.1) containing a tentative schedule of work. The Working Group accepted that schedule in principle.

9. Many members of the Working Group stated that there was need for additional information in the form of both written and oral reports. Under resolution 48/218, the Working Group was to work in consultation with the relevant existing bodies. In that connection the Group invited representatives of certain bodies and offices to attend meetings of the Working Group to provide information and exchange views.

F. Documentation

10. The documents presented to the Working Group are listed in Annex II to the present report.

III. SUBSTANTIVE MATTERS

11. The Working Group started its work on the basis of an examination of existing financial and disciplinary rules and procedures within the scope of its mandate in order to determine to what extent such rules and procedures were satisfactory and whether improvements or changes might be recommended.

12. Statements were made by members of the Working Group concerning the scope and nature of their mandate. In that connection the Working Group sought clarification from the Secretariat concerning the definition of fraud, its magnitude and the existing stages through which an alleged case of fraud would be submitted.

13. The view was expressed that it was important to study situations that might arise when financial fraud was committed or allegedly committed by United Nations staff and the national judicial proceeding that may be applied in such cases as well as the question of the privileges and immunities of staff members and the Organization in such judicial proceedings. The Working Group decided that those views needed further reflection.

14. Members of the Working Group were of the view that external and internal audit should be kept separate as they fulfilled different roles. External audit was an external oversight mechanism for the control of the United Nations by the General Assembly.

15. Several members of the Working Group stressed the need to have certain analyses provided, for example the magnitude of fraud cases in terms of both numbers and dollar value, and the number of cases strictly considered as emanating from a violation of the Financial Rules, such as the bidding and procurement procedures.

16. The Working Group concluded that those issues would have to be addressed at its second session. The Secretariat was therefore requested to provide relevant information, and where necessary to prepare documents for that purpose.

IV. ARRANGEMENTS FOR THE SECOND SESSION

A. Issues to be considered

17. The Working Group raised a number of issues which it decided to consider in detail at the second session. They included how to treat frauds from both within and outside the United Nations; internal control and disciplinary mechanisms; prevention of fraud; improvement of existing mechanisms and the possibility of establishing new ones; raising awareness and training of staff in the financial areas; and recovery, for example, enabling the Secretary-General to file cases against staff members before the Administrative Tribunal, and the waiver of immunity of staff to allow for prosecution before national courts.

18. At its second session the Working Group intends to examine the following matters:

1. Magnitude of the problem and frauds committed from outside and inside the United Nations.

2. Review of existing rules, procedures and mechanisms in the following areas:

   (a) Prevention and detection of financial irregularities, e.g. by reference to the Financial Rules and Regulations, including those relating to procurement, Staff Rules and Regulations, recruitment standards and training and also the role of internal and external audits in the determination of financial irregularities, including in the field of procurement.

   (b) Disciplinary mechanisms:

      (i) Investigation;

      (ii) Joint Disciplinary Committee;

      (iii) United Nations Administrative Tribunal;

      (iv) Criminal proceedings in national courts;

   (c) Recovery;

   (d) Reporting and follow-up.

3. In connection with the above, identification of areas requiring improvement, strengthening and introduction of new procedures and mechanisms.

B. Documentation

19. Members of the Working Group were encouraged to submit their views in writing to the Secretariat for circulation, if feasible, to the members of the Working Group prior to the second session.

20. The Secretariat was requested to prepare analyses of fraud cases, and to make available any existing documents on the subject.

C. Date of the next session

21. The Working Group agreed to hold its second session at United Nations Headquarters from 13 to 17 June 1994.

V. ADOPTION OF THE REPORT

22. At the 9th meeting, the Rapporteur introduced and orally revised the draft report of the Working Group on the work of its first session (A/AC.243/1994/L.4).

23. The Working Group then adopted the draft report as orally revised.

VI. CLOSURE OF THE SESSION

24. At the 9th meeting, the Chairman summed up the positive achievements of the first session and stressed the usefulness of the work done by the Working Group in determining the scope of its work and identifying the issues that must be addressed and the documentation necessary to enable it to proceed with its work.

25. The Chairman expressed his appreciation to the officers, the Secretariat and all those associated with the work of the session. He thanked all those present for their participation in the first session of the Ad Hoc Intergovernmental Working Group of Experts and declared the session closed.

Annex I

LIST OF PARTICIPANTS

A. Member States

Algeria	Mr. M'hand Ladjouzi
Argentina	Ms. Silvia Fernandez, Legal Adviser, Permanent Mission
Armenia	Mr. Movses Abelian, First Secretary, Permanent Mission
Azerbaijan	Mr. Rufat N. Novruzov, Counsellor, Permanent Mission
Barbados	H.E. Mr. Besley Maycock, Permanent Representative to the United Nations
Brazil	Mr. Lucius Maia Araujo
Canada	Ms. Bonnie Miller, Assistant Auditor General
China	Mr. Wang Baoliu, Minister, Special Adviser on Economic Issues, Department of International Organizations and Conferences, Ministry of Foreign Affairs
Colombia	Mr. Alfredo Rey, Minister Plenipotentiary, Alternate Representative to the United Nations
Dominican Republic	H.E. Mr. Pedro Desiderio Blandino Canto, Permanent Representative to the United Nations
Egypt	Mr. Adel El Safty, Assistant to the Minister for Foreign Affairs for multilateral relations
Finland	Mr. Erkki Kourula, Minister Counsellor, Permanent Mission
France	Mr. Pierre Lelong, Conseiller, Maitre de la Cour des Comptes
Germany	Mr. Helmut Kitschenberg, President, Federal Academy for Public Administration
India	Mr. N. Sivasubramanian, Deputy Comptroller and Auditor General
Japan	Mr. Yoshikazu Toyama, First Secretary, Permanent Mission
Jordan	Ms. Hanna S. Odeh, External Consultant to the World Bank and the International Fund for Agricultural Development

Malaysia	Mr. Rosli bin Abdullah, Director of Corporate and Management Support, Accountant General Department, Ministry of Finance
Mali	Mr. Mahamane Amadou Maiga, Second Counsellor (Economic, social, administrative and budgetary questions), Permanent Mission
Russian Federation	Mr. Vladimir V. Kuznetsov, First Secretary, Permanent Mission
Senegal	Mr. Mame Balla Sy, Minister Counsellor, Permanent Mission
Tunisia	Mr. Tarak Ben Hamida, Counsellor, Permanent Mission
United Kingdom of Great Britain and Northern Ireland	Mr. Michael Wood, Counsellor and Legal Adviser, Permanent Mission
United States of America	Mr. Herbert K. Reis

B. Invited representatives of United Nations bodies and offices

H.E. Mr. C. S. M. Mselle, Chairman, Advisory Committee on Administrative and Budgetary Questions

Mr. Martin Sinclair, Chairman, Audit Operations Committee, Board of Auditors

Mr. Mohamed Niazi, Assistant Secretary-General, Office for Inspections and Investigations

Ms. Christine Dodson, Director of Personnel

Ms. Susan Mills, Deputy Controller

Ms. Maria Vicien-Milburn, Executive Secretary, United Nations Administrative Tribunal

Annex II

LIST OF DOCUMENTS

Report of the Secretary-General on jurisdictional and procedural mechanisms for the proper management of resources and funds of the United Nations (A/49/98)

Provisional agenda (A/AC.243/1994/L.1)

Alleged cases of fraud in the United Nations: study of the possibility of the establishment of a new jurisdictional and procedural mechanism or of the extension of mandates and improvement of the functioning of existing jurisdictional and procedural mechanisms: Note by the Secretariat on internal disciplinary mechanisms (A/AC.243/1994/L.2)

Alleged cases of fraud in the United Nations: study of the possibility of the establishment of a new jurisdictional and procedural mechanism or of the extension of mandates and improvement of the functioning of existing jurisdictional and procedural mechanisms: overview by the Secretariat (A/AC.243/1994/L.3)

Note by the Secretariat: oversight machinery dated 7 December 1993

Personnel directive on disciplinary procedure for staff serving at offices away from Headquarters and Geneva (PD/1/76)

Article X of Staff Regulations on disciplinary measures

Article XII of Staff Regulations on general provisions

Financial report and audited financial statements for the biennium ended 31 December 1991 and report of the Board of Auditors (Official Records of the General Assembly, Forty-seventh Session, Supplement No. 5 (A/47/5))

Staff Regulations (ST/SGB/Staff Regulations/Rev.22)

General Assembly, forty-eighth session, summary records of selected meetings of the Fifth Committee

Financial Regulations and Rules of the United Nations (series 100) (ST/SGB/Financial Rules/1/Rev.3 (1985))

Note by the Secretary-General on the Office for Inspections and Investigations (A/48/640)

Note by the Secretary-General on the review of the efficiency of the administrative and financial functioning of the United Nations (A/48/876)

General Assembly resolution 48/218

Report on standards of conduct in the international civil service (Coord/Civil Service/5, 1986 edition)

United Nations Administrative Tribunal, Statute and Rules (AT/11/Rev.4)

Report of the Secretary-General on the feasibility of establishing a single administrative tribunal (A/40/471)

Report of the Secretary-General on internal control procedures relating to benefits and allowances (A/42/437)

Measures to facilitate reporting by staff members of inappropriate uses of the resources of the Organization; internal controls relating to the payment of allowances and benefits; and efforts to recover outstanding excess income tax reimbursements (A/47/510)

Report of the Secretary-General on recovery of misappropriated funds from staff members and former staff members (A/48/572)

Administrative instruction on personnel payroll clearance action (ST/AI/155/Rev.2)

Administrative instruction on revised disciplinary measures and procedures (ST/AI/371)

Information circular on internal recourse procedures in the United Nations Secretariat (ST/AI/82/7)

Report of the Advisory Committee on Administrative and Budgetary Questions on the financial report and audited financial statements, and reports of the Board of Auditors (A/47/500)